

16 October 2007

Mr G Jungwirth
Department of Primary Industries
via email - gary.jungwirth@dpi.vic.gov.au

Dear Gary

RE: REVIEW OF ENVIRONMENTAL REVIEW COMMITTEES

As you would be aware, the Construction Material Processors Association (CMPA) represents a broad spectrum of those involved in construction material processing businesses engaged in the extracting processing or otherwise working in hard rock, gravel, sand, masonry, clay, lime, soil, gypsum or recycling.

After consulting widely with our membership, the CMPA submits the following comments specific to the recommendations. We have only addressed concerns from the aspect of Work Authorities holders.

As an overall comment, it is recommended that the ERCs should never be a condition of work authority and that it is further expanding the red tape restrictions within our industry sector. Rather it should be a voluntary action by an operator encouraged by the DPI where there are local site issues. Furthermore, the necessity for the ERCs overall is questioned especially when the site is obligated to report to regulators whenever failure or trigger points are extended.

1. That existing ERCs continue to operate and new ones be established as required. When a new ERC is established, a brief workshop should be held to discuss and determine the role and responsibilities of the ERC.

The introduction to the review noted the establishment of an ERC is determined by five factors, being:

- The project's size,
- The project's anticipated longevity,
- Proximity to sensitive environmental or community locations, and
- The potential for the operation to have adverse impacts; or
- Recommendations from an EES.

In either case, it is essential that these five factors are strengthened as without clear reference points it is possible that smaller businesses will be burdened with ERCs having a direct impact on their ability to operate competitively in the market. Accordingly, it is essential that the minimum triggers be nominated. For instance, project size should be greater than 500,000 tonnes/annum, and even then only if absolutely necessary.

2. That the prime purpose of ERCs continues to be reviewing the environmental performance of the operation.

Concern was raised as to the ability of members of the public to know when a trigger point was being met or to appreciate what is or is not possible for the operator to achieve. It is also again worth noting that the work authority holder has an obligation to report to their regulators being DPI, EPA, etc.

3. **The ERCs be empowered to consider non-environmental issues where appropriate, and agreed to, by the ERC members. This could be in the form of a subcommittee that reports to the ERC. Any initiative will need to be noted in the minutes and discussed and agreed to upon with each new change of the committee.**

There are clearly other, existing avenues for the community to raise any issue they may have regarding the operation of a site. Rather than empowering ERCs to consider these matters, it is more appropriate that the proper existing channels are utilised. This provides clear traceability of ongoing matters, and proof of concerns (or lack thereof) over time.

4. **That DPI participates in and encourages other opportunities of community engagement whenever possible.**

The CMPA supports this recommendation as there are many different methods by which an operator can ensure their local community are aware of what is happening. For example, the majority of our members consult directly on a one-on-one basis with adjoining and surrounding landholders very effectively. This should be encouraged.

5. **That community or local government representatives be encouraged to chair ERCs rather than DPI representatives.**

The CMPA does not support this recommendation in any way, especially with DPI having funding to assist in this matter. There is also clear evidence of local councils actively funding objections to proposed work authorities and council's having work authorities in their own right.

DPI representatives being chair ensures that the chair can equally understand both the operator's and communities' concerns. This cannot be achieved in such a balanced manner (without inferred bias) in any other way, as clear conflicts of interest (one way or the other) will exist.

6. **That local councils be requested to have responsibility for election/appointment of community representatives and where the council is not prepared to do this, that DPI conducts the election process according to clear and transparent guidelines that should be prepared by the DPI.**

The CMPA does not support this recommendation.

A better outcome would be achieved if the operator or their representative were responsible for nominating community representatives in consultation with the DPI, local councils and landholders. The operator is often aware of who should be on the ERC and will be able to ensure those who are local to the area and affected by the operation are participating.

7. **That the chairperson of each ERC be responsible for encouraging attendance from other agencies and following up on non-attendance and assist in ensuring that issues raised at a meeting are followed up and reported at the following ERC meeting. As ERCs are a condition of a licence or work authority, the chairperson should also report annually to DPI on the progress of each ERC.**

Although non-attendance should be followed up, it is an indicator that the ERC may not be worth maintaining even though it is a condition of a work authority.

When new, more effective methods of communicating to the community are established or the committee is continually not meeting a quorum of 75% there should be processes by which the ERC can be wound down.

- 8. That the company have responsibility for the resourcing of the ERC such as providing or arranging a venue, preparation of the agenda (in consultation with the Chair), distribution of all papers and costs associated with an independent chair where appropriate. Tea/coffee and light refreshments should also be provided.**

The CMPA does not agree to the operator covering the cost of an independent chair as this could infer bias. The CMPA agrees that the operator arranges the venue, agenda, meeting papers, and basic refreshments. It is important that costs are always restrained – people should not be bribed to attend simply because there will be good food and flashy papers.

- 9. That further consideration be given to the reimbursement of travelling and babysitting fees to eligible community representatives.**

The CMPA does not support this recommendation under any circumstance. (refer to recommendation 8). This is not common practice – for instance no reimbursement is made by the DPI or other regulators to industry when industry are required to contribute to discussions or attend meetings which often requires travel into Melbourne on a weekly basis. Secondly, it could create the situation where meeting participants are paid consultants, rather than members of the local community.

As such this should not even be considered.

- 10. Recommendations 9 and 10 – Updating supporting material.**

The CMPA has no comments to the last two recommendations of the submission.

If you would like to discuss these points any further, please do not hesitate in contacting me.

Yours sincerely

A handwritten signature in blue ink that reads "S. Andrew". The signature is written in a cursive style and is underlined.

Sarah Andrew
CMPA Project Manager